

REMARKS

Claims 1-18 are pending in the application. The Examiner has rejected Claim 1 under 35 U.S.C. §102(b) as being anticipated by Dupont (U.S. Patent 5,729,542). The Examiner has rejected Claims 2-4 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of 3GPP '321 (ETSI TS 125 321). The Examiner has rejected Claims 5, 9 and 13-15 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of 3GPP '211 (ETSI TS 125 211). The Examiner has rejected Claims 6-8, 10-12 and 16-18 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of 3GPP '211, and further in view of 3GPP '321. Additionally, the Examiner states that the oath or declaration is missing. Finally, the Examiner objected to the drawings under 37 C.F.R. 1.83(a).

Please amend Claims 1, 5 and 13 as shown above. Claims 1 and 5 have been amended to recite that the counting and determining are performed on the basis of a transport format, and that the determined persistence values are transmitted to the UEs in a cell controlled by a Node B. Claim 13 has been amended to recite that the preambles are adjusted by at least counting the number of the CPCH access preambles transmitted from the UEs during a time unit; reporting the counted number of the CPCH access preambles to a controlling radio network controller (CRNC); determining, in the CRNC, persistence values of each transport format based on the number of the CPCH access preambles reported; providing the persistence values to the UEs; performing in a UE, a persistence test by using the provided persistence values before transmitting a common packet channel access preamble; transmitting the common packet channel access preamble to the Node B when the persistence test allows the transmission of the common packet channel access preamble; upon receiving an acknowledge message from the Node B, transmitting a collision detection preamble from the UE to the Node B; and transmitting a common packet channel message from the UE to the Node B if the UE received an acknowledge message for the collision detection preamble from the Node B. Accordingly, based on at least the foregoing amendments, Claims 1, 5 and 13 are believed to be in condition for allowance.

Please cancel Claims 2, 6, 9-12 and 14-16, without prejudice. Please add new Claims 19 and 20. It is respectfully submitted that no new matter has been added.

Regarding the Examiner's allegation that the oath or declaration is missing, it is respectfully submitted that the Declaration in this application was filed on July 11, 2001 in response to the Notice to File Missing Parts, a copy of which was returned bearing a stamp showing the date received by the U.S. Patent and Trademark Office of July 16, 2001. A copy is attached hereto. Additionally, the corrected filing receipt dated December 6, 2001 clearly shows the Applicants' addresses, evidence of the receipt of the Declaration. A copy is attached hereto. It is respectfully requested that the Examiner acknowledge receipt of the Declaration.

Regarding the objection of the drawings under 37 C.F.R. 1.83(a), Applicants' representative, Michael J. Musella, Esq., contacted the Examiner on January 7, 2005 to discuss this matter. It was agreed that the following references would provide the basis to withdraw the objection. The features indicated by the Examiner are described in page 181, line 18 to page 198, line 8 of the Specification. In particular, Figure 39 and the related specification describe the feature "counting the number of access preamble", and page 193, line 8 to page 198, line 8 describe the feature "determining the persistence values" in detail. Based on at least the foregoing, withdrawal of the objection is respectfully requested.

The Examiner rejected independent Claim 1 under §102(b) as being anticipated by Dupont. Dupont discloses a method and apparatus for communication system access. First, it is clear from the language of Claim 1 that the claim relates specifically to the assignment of a common packet channel; Dupont relates to a broadcast or control channel. Second, Claim 1 states that the number of access preambles is counted; Dupont bases its persistence values on known system parameters, not accumulated access preambles. Additionally, as the persistence values of Claim 1 are based on the accumulation result, and as Dupont does not accumulate access preambles, Dupont cannot anticipate the determination of the persistence values of Claim 1. Accordingly, based on at least the foregoing, withdrawal of the rejection of Claim 1 is respectfully requested.

Also, Claim 1 relates to measuring a collision rate by allocating to the CPCH within a cell being served by a Node B the measured collision rate of the CRNC, thus controlling a collision rate of Node Bs being served by the CRNC. Further, to control the collision rate, Claim 1 of the present application uses persistence values and persistence tests. On the other hand, Dupont discloses a method and apparatus for accessing a communication system using various probabilities for subscribers or messages of varying priority. To this end, a base station (110) of Dupont detects access probabilities depending on each priority class of user/message, wherein the priority class is classified by QoS assigned for each subscriber or each message. Further, the detection of the access probabilities in Dupont is based on known system parameters, i.e. the current rate of access attempts; the base station transmits values representing the detected access probabilities to corresponding subscriber units so that the subscriber units attempt to access an uplink channel by the representative values. Dupont differentiates each subscriber or message in an assignment of an uplink channel by assigning a different access probability for each priority class.

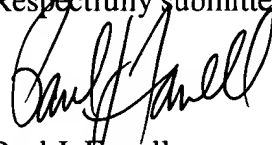
Accordingly, Claim 1 of the present application recites the determination of a persistence value in a unit of transport format (TF), physical common packet channel (PCPCH), or CPCH set, and to do so, requests assignment of a CPCH. On the contrary, *Dupont* detects access probabilities for each priority group (priority class) and attempts to access an uplink channel based on the value representing the access probabilities detected for the respective group. That is, Claim 1 of the present application performs in each unit of transport format in a Node B, but *Dupont* performs in each priority of subscriber/message. Accordingly, based on at least the foregoing, withdrawal of the rejection of Claim 1 is respectfully requested.

Independent Claims 5 and 13 were rejected under §103(a) as being unpatentable over Dupont in view of 3GPP '211. 3GPP '211 discloses the physical channels and the mapping of the transport channels onto the physical channels. As the arguments relating to Claim 1 are applicable to Claims 5 and 13 with respect to Dupont, and that 3GPP '211 does not cure the deficiencies of Dupont, based on at least the foregoing, withdrawal of the rejection of Claims 5 and 13 is respectfully requested.

Independent Claims 1, 5 and 13 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 3, 4, 7, 8 and 17-20, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 3, 4, 7, 8 and 17-20 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 3-5, 7, 8, 13 and 17-20, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Barrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/MJM/las